

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 211 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SONU BHOJUMAL TAHEL RAMANI SINDHI

Versus

COMMISSIONER OF POLICE

Appearance:

MR RC KODEKAR for Petitioner

MRS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 11/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 7th November, 1998 made by the Commissioner of Police, Ahmedabad City, under the powers

conferred upon him under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' within the meaning of Section 2 (b) of the Act. An offence punishable under the Bombay Prohibition Act has been registered against the petitioner on 23rd September, 1998 in which large quantity of foreign liquor was recovered. Besides, two individuals have given statements in respect of bootlegging activities of the petitioner and his adverse effect on the public tranquillity and the even tempo of life.

4. Amongst other grounds, the impugned order of detention is challenged on the ground that the representation to the detaining authority made on 12th November, 1998 has not been attended to promptly. The continued detention of the petitioner is, therefore, vitiated. In the counter affidavit made by the detaining authority, it is categorically stated that the representation in question was received by the detaining authority on 19th November, 1998 and since he had no power to consider the same, he had rejected it on 23rd November, 1998. If the detaining authority had no power to consider the representation made by the detenu, he ought to have forwarded the same to the State Government and should not have rejected the same. On similar facts, this Hon'ble Court in the matter of Salim Pothiya Rehmanbhai Belia v. The District Magistrate, District-Mehsana & Ors [1994 (2) GLH (UJ) 11] has held that such inaction on the part of the Detaining Authority shall vitiate the continued detention of the petitioner. In the present case also, as referred to hereinabove, the detaining authority was expected to forward the representation made by the detenu immediately to the State Government, instead, he has rejected the same. The continued detention of the petitioner is, therefore, vitiated.

5. The petition is allowed. The order dated 7th November, 1998; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.
